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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD WILLIAM KOHLS,

Defendant and Appellant.

C087479

(Super. Ct. No. 17FE007360)

Appointed counsel for defendant Richard William Kohls has asked this court to review the record to determine whether there exist any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Our review of the record has disclosed the trial court's failure to impose two mandatory assessments, which we will now impose. We affirm the judgment as modified.

I

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Defendant was charged with possession of methamphetamine while armed with a loaded, operable firearm (Health & Saf. Code, § 11370.1, subd. (a); count one) and being a felon in possession of a firearm (Pen. Code, § 29800, subd. (a)(1); count two).¹

Testimony from the preliminary hearing established that authorities had a search warrant for a designated address and first surveilled the property waiting to execute the warrant. Once execution began, Detective Kenny Shelton saw individuals fleeing through the backyard. In response, Shelton entered the backyard through the side gate and noted defendant in a doorway with a handgun. Shelton yelled “gun,” and defendant retreated to the interior of the shed. Defendant reappeared within a minute with his hands up and was taken into custody. Defendant was advised of and waived his *Miranda*² rights. He then told authorities that the handgun was his and that he had it to protect himself and his mother. He disclaimed ownership of anything in the main residence. Everything he owned, including the methamphetamine and handgun, were in the shed on the “southwest corner of the property.” Detective Shelton searched that area and found a loaded handgun on defendant’s bed as well as methamphetamine on the nightstand. The parties stipulated for purposes of the preliminary hearing that the substance found was 2.8 grams of methamphetamine. The trial court held defendant to answer on the felony complaint, which was deemed the information.

Thereafter, defendant filed a section 1538.5 motion to quash the search warrant and suppress evidence, arguing the warrant did not include defendant’s detached

¹ Undesignated statutory references are to the Penal Code.

² *Miranda v. Arizona* (1966) 384 U.S. 436 [16 L.Ed.2d 694].

residence, as it was not described with particularity in the warrant. The warrant authorized search of the “single story family home” at the designated address and also included in pertinent part, “all . . . surrounding grounds, garages, out buildings, storage sheds, storage lockers . . . and out buildings of any kind located or belonging to the premises of” that address. After hearing evidence and argument at the suppression hearing, the trial court denied defendant’s motion.

Defendant later pleaded no contest to violating Health and Safety Code section 11370.1, subdivision (a), as charged in count one in exchange for the dismissal of count two and a sentence of two years in state prison, which the trial court imposed. Defendant was given 74 days’ actual credit plus 74 days’ conduct credit for a total of 148 days’ custody credit. The trial court also ordered defendant pay a restitution fine of \$600 (§ 1202.4, subd. (b)), and a corresponding suspended parole revocation fine of \$600 (§ 1202.45). His counsel did not object to the extra \$300 imposed above the statutory minimum based upon an ability to pay. (§ 1202.4, subds. (b)-(d).) The trial court failed to impose the mandatory \$40 court operations assessment (§ 1465.8) and \$30 conviction assessment (Gov. Code, § 70373).

Defendant timely appealed, but the record does not reflect that he received a certificate of probable cause.

II

Counsel filed an opening brief that sets forth the facts of the case and requests that we review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief, but to date has not done so.

Our review of the record has disclosed that the trial court failed to impose the mandatory \$40 court operations assessment (§ 1465.8) and \$30 conviction assessment (Gov. Code, § 70373). We can and will correct this omission. (See *People v. Smith*

(2001) 24 Cal.4th 849, 853-854 [Court of Appeal may correct errors associated with mandatory sentencing choices without the need to remand for further proceedings]; *People v. Knightbent* (2010) 186 Cal.App.4th 1105, 1111-1113 [correcting the amount imposed for the mandatory assessments under Gov. Code, § 70373].)

Finding no other arguable error that would result in a disposition more favorable to defendant, we affirm the judgment as modified.

DISPOSITION

We modify the judgment to impose a mandatory \$40 court operations assessment (§ 1465.8) and \$30 conviction assessment (Gov. Code, § 70373). Because the abstract of judgment already reflects these assessments, no amendment of that document is required. The judgment is affirmed as modified.

RAYE, P. J.

We concur:

BUTZ, J.

MURRAY, J.